

Appl. No. 10/788,788
Amdt. dated April 10, 2006
Reply to Office Action of December 8, 2005

PATENT

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 2, and replacement formal figures for Figs. 1 and 3-11. These sheets, which includes Fig. 1-11 replaces the original sheet including Fig. 1-11.

The changes to Fig. 2 are indicated in the annotated sheet, while the replacement formal figures for Figs. 1 and 3-11 do not include any substantive changes.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS/ARGUMENTS

Claims 1-20 were pending in this application. Claims 1, 9, 14-17, and 19 have been amended. No claims have been added or canceled. Support for the present amendments may be found throughout the specification and claims as originally filed, *e.g.*, at claim 13 *etc.* As such, it is submitted that no new matter enters by way of the present amendment. Hence, claims 1-12, and 14-20 remain pending. Entry of the present amendment and reconsideration of the subject application as amended is respectfully requested.

Allowable Subject Matter

The Examiner is thanked for the indication that claims 15, and 17-18 would be allowable if rewritten to address the minor issues under 35 U.S.C. § 112, Second Paragraph; and to include the limitations of the base claim and any intervening claims. However, Applicants believe that the independent claims, as presented herein and discussed below, are patentable over the cited art. As such, Applicants have not amended the claims at this stage of prosecution.

Objections to the Drawings

The drawings have been objected to as alleged not showing every feature of the invention specified in the claims.

Regarding the objections of paragraph (a) and (b), it is noted that Fig. 2 depicts an embodiment wherein the mixing members are independent and can have a variable orientation relative to the second axis, while Fig. 1 depicts an embodiment wherein the mixing members are made in one piece with cap 36, thereby providing a fixed orientation relative to the second axis. *See Specification*, Para. [0049]. As such, withdrawal of these objections is respectfully requested.

Regarding the objections of paragraph (c) and (d), it is noted that Fig. 2 illustrates an embodiment including telescopic arm 27. Further, Fig. 2 has been amended to illustrate the motor 29 located in the telescopic arm which drives the lump breaker. As such, withdrawal of these objections is respectfully requested.

Objection to the Specification

The title of the invention has been objected to as not being indicative of the invention to which the claims are directed. To facilitate prosecution, the title has been amended to more closely match the claimed invention. As such, withdrawal of this objection is respectfully requested.

Objection to the Claims

Claim 9 has been objected to due to improper ending punctuation. The claim has been amended to end with proper punctuation. As such, withdrawal of this objection is respectfully requested.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 16-18 stand rejected as allegedly indefinite for failure of antecedent basis in the claim term "the transmission tube." To facilitate prosecution, claims 16 and 17 have been amended to recite "a transmission tube." However, such amendments do not narrow the scope of the claims in any regard. As such, it is submitted that the claims comply with 35 U.S.C. § 112, Second Paragraph, and withdrawal of this rejection is respectfully requested.

Claim Rejections under 35 U.S.C. § 102

A. EP 1050335 A1

Claims 1-10, 12, 19 and 20 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by EP 1050335 A1. This rejection is respectfully traversed for at least the reasons which follow.

The present independent claims relate to a mixer including a lump breaker which is mobile relative to the first axis of the mixer, the lump breaker and the mixing members of the mixer being on either side of a plane containing the first axis.

It is well established that to anticipate a claim, a reference must disclose every element of the claim. *Verdegaal Bros. v. Union Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989).

Whatever else EP 1050335 A1 may disclose, it does not disclose a lump breaker and mixing members, much less a lump breaker which is mobile relative to the first axis of the mixer, wherein the mixing members and the lump breaker are on either side of a plane containing the first axis.

For at least these reasons, it is submitted that EP 1050335 A1 does not teach each and every limitation of the present claims. As such, withdrawal of this rejection is respectfully requested.

B. US 4,065,811

Claims 1-12 and 19 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by US 4,065,811 to Pauty (hereinafter "Pauty"). This rejection is respectfully traversed for at least the reasons which follow.

Again, whatever else Pauty may disclose, it does not disclose a lump breaker and mixing members, much less a lump breaker which is mobile relative to the first axis of the mixer, wherein the mixing members and the lump breaker are on either side of a plane containing the first axis.

For at least these reasons, it is submitted that Pauty does not teach each and every limitation of the present claims. As such, withdrawal of this rejection is respectfully requested.

C. SU 1472111 A1

Claims 1, 2, 5, 6, 7, 10, 12, 13, and 16 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by SU 1472111 A1. This rejection is respectfully traversed for at least the reasons which follow.

Again, the present independent claims relate to a mixer including a lump breaker which is mobile relative to the first axis of the mixer, the lump breaker and the mixing members of the mixer being on either side of a plane containing the first axis.

It is submitted that SU 1472111 A1 does not disclose a lump breaker as required by the present claims. In support of the rejection, the examiner identifies reference 10 as lump breaker. However, the reference 10 is a fixed mixing screw (relative to the first axis) and not a mobile lump breaker. Further, it is submitted that SU 1472111 A1 does not disclose any other

mobile element that can break up lumps. Thus, document SU 1472111 A1 does not teach any lump breaker which is mobile relative to a first axis of the mixer.

Moreover, even if mixing screw 10 could be identified as a lump breaker which is mobile relative to a first axis, this mixing screw and the mixing members 16 are not on either side of a plane containing the first axis. Indeed, in the present invention, the lump breaker 26 is on one side of the plane containing the first axis and the mixing members 22 are on the other side of said plane, as recited in the present independent claims.

To the contrary, SU 1472111 A1 discloses mixing screw as on the plane containing the first axis, one mixing member is on one side of said plane and the other mixing member is on the other side of said plane. The arrangement of the lump breaker and the mixing members on each side of the plane containing the first axis as defined present claims prevents the elements from striking each other and allows for improved breaking-up of lumps. *See Specification, Para. [0059].*

As such, whatever else SU 1472111 A1 may disclose, it does not disclose a lump breaker and mixing members, much less a lump breaker which is mobile relative to the first axis of the mixer, wherein the mixing members and the lump breaker are on either side of a plane containing the first axis.

For at least these reasons, it is submitted that SU 1472111 A1 does not teach each and every limitation of the present claims. As such, withdrawal of this rejection is respectfully requested.

D. US 3,799,917

Claims 1, 2, 7, 11, 12, 13, 14, and 16 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by US 3,799,917 to Rathke (hereinafter "Rathke"). This rejection is respectfully traversed for at least the reasons which follow.

It is submitted that Rathke does not disclose a lump breaker as required by the present claims. In support of the rejection, the examiner identifies references 15 and 16 in Rathke as lump breakers. However, the wiper blade 17 mounted to the support arm 16 provides a wiping or scraping action (col. 7, ll. 23-29). This wiping or scraping action is very different

than breaking up lumps. Rather, the wiper blade are intended to scrape internal surfaces of side walls of the reactor. Further, the wiper blade is rotationally mobile, but there is no suggestion that that arms 16 are mobile relative to the first axis, as required by the present claims. Further, it is submitted Rathke does not disclose any other element that can break up lumps, as defined in the present application.

As such, whatever else Rathke may disclose, it does not disclose a lump breaker and mixing members, much less a lump breaker which is mobile relative to the first axis of the mixer, wherein the mixing members and the lump breaker are on either side of a plane containing the first axis.

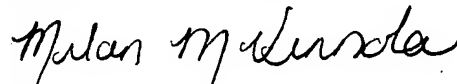
For at least these reasons, it is submitted that Rathke does not teach each and every limitation of the present claims. As such, withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



Milan M. Vinnola
Reg. No. 45,979

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415-576-0300

Attachments

2/7

FIG. 2

